


BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2003-185-C - ORDER NO. 2003-518
AUGUST 22, 2003

IN RE: Application of E-Z Tel, Inc. for a Certificate of Public Convenience and Necessity to Provide Intrastate Interexchange Telecommunications Services within the State of South Carolina.) ORDER GRANTING) MOTION FOR) EXPEDITED REVIEW and) APPLICATION FOR) AUTHORITY TO) PROVIDE INTRASTATE) INTEREXCHANGE) SERVICE
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This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of E-Z Tel, Inc. (“E-Z Tel” or “the Company”) requesting the authority to provide local exchange service in South Carolina. E-Z Tel is already authorized to provide local telecommunications services within the State of South Carolina as authorized by this Commission in Docket No. 97-274-C. Since 1997 the Company has provided facilities-based local exchange services through an unbundled network element (“UNE”) platform. By this Application, the Company plans to offer interexchange service in South Carolina on a prepaid basis to customers in South Carolina.

The Commission’s Executive Director instructed E-Z Tel to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the affected areas. The Company complied with this instruction and provided the Commission with proof of

publication of the Notice of Filing. No Petitions to Intervene were filed with the Commission.

On June 23, 2003, E-Z Tel subsequently filed a Motion for Expedited Review. Along with the Motion, E-Z Tel provided the Commission with verified testimony of Mr. Rick L. Brown, E-Z Tel's Chief Technology Officer, and documentation evidencing that the Company possesses the financial, operational, and managerial resources required to provide high quality interexchange telecommunications services at competitive rates, terms and conditions. E-Z Tel was initially issued a Certificate to provide local exchange service in South Carolina by this Commission in 1997 in Docket No. 97-274-C.

FINDINGS OF FACT

1. E-Z Tel is organized as a corporation under the laws of the State of North Carolina and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State. The Company's corporate headquarters are located in Dallas, Texas.

2. E-Z Tel was authorized to operate as a provider of local exchange telecommunications by this Commission in Docket No. 97-274-C and now wishes to expand its services to include intrastate interexchange services.

3. The Commission finds that E-Z Tel possesses the necessary experience, capability, and financial resources to provide intrastate interexchange telecommunications in South Carolina. S.C. Code Ann. Section 58-9-280(B)(1).

4. The Commission further finds that E-Z Tel will provide communications services which will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2).

5. No protests or Motions for Intervention were filed in this matter and by E-Z Tel's Motion for Expedited Review, the Applicant has waived its right to be heard under S. C. Code Ann. Sec. 58-9-280.

6. The Commission finds sufficient facts to support the Company's request to utilize GAAP to maintain its books of accounts.

7. The Commission finds that the provision of intrastate interexchange service by E-Z Tel will not adversely impact the availability of local exchange service, will support universally available telephone service at affordable rates, and will not adversely impact the public interest. S.C. Code Ann. Section 58-9-280(B)(3), (4) & (5).

CONCLUSIONS OF LAW

1. E-Z Tel's Motion for Expedited Review is granted on the basis of the facts as stated in this Order and on the basis that E-Z Tel has previously been found fit to provide telecommunications services in South Carolina (See Order No. 2002-502) and the instant Application seeks merely to expand that authority to include long distance services.

2. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to E-Z Tel to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through its own facilities and through the resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications

Service (MTS), Foreign Exchange Service, Private Line Service, 800 inbound service, intraLATA direct dialed services or any other services authorized for resale by tariffs of carriers approved by the Commission.

3. The Commission adopts a rate design for E-Z Tel for its resale of Interexchange services which includes only maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

4. E-Z Tel shall not adjust its interexchange rates below the approved maximum level without notice to the Commission and to the public. E-Z Tel shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes. However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 2002).

5. If it has not already done so by the date of issuance of this Order, E-Z Tel shall file its revised tariff and an accompanying price list within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with the findings of this Order and shall be consistent with the Commission's Rules and Regulations.

6. E-Z Tel is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

7. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

8. E-Z Tel shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If E-Z Tel changes underlying carriers, it shall notify the Commission in writing.

9. With regard to the origination and termination of toll calls within the same LATA, E-Z Tel shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX inter-LATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (47 CFR 51.209). E-Z Tel shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

10. E-Z Tel shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipts reports will necessitate the filing of intrastate information. Therefore, E-Z Tel shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found on the Commission's website at www.psc.state.sc.us/forms. The title of this form is "Annual Information on South Carolina Operations for Interexchange Companies and AOS." This form shall be utilized by the Company to file annual financial information with the Commission. Commission gross receipts forms are due to be filed with the Commission no later than August 31st of each year.

11. As a condition of offering prepaid long distance and debit card services, the Commission requires the Company to post with the Commission a bond in the form of a Certificate of Deposit worth \$5,000 drawn in the name of the Public Service Commission of South Carolina or a surety bond in the amount of \$5,000 which is payable to the Commission. The Certificate of Deposit shall be drawn on federal or state chartered banks or savings and loan associations which maintain an office in this state and whose accounts are insured by either the FDIC or the Federal Savings and Loan Insurance Corporation. A surety bond shall be issued by a duly licensed bonding or insurance company authorized to do business in South Carolina. This condition may be reviewed in one year.

12. If the Company sells its debit cards to retail establishments for resale of the debit cards, and the retailer of the debit cards deviates from the suggested retail price as filed in the tariff, or as approved by the Commission in a special promotion, then the Company will withdraw its cards from that retail outlet. This Commission strongly suggests that the Company enter into written agreements with its South Carolina retail outlets regarding this policy of abiding by suggested retail pricing prior to the outlet marketing the card.

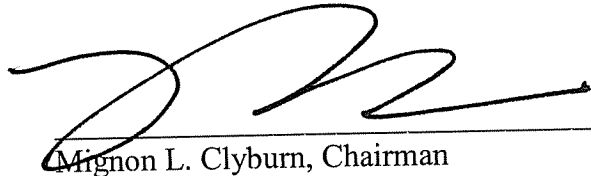
13. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. E-Z Tel shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The “Authorized Utility Representative Information” form can be found at the Commission’s website www.psc.state.sc.us/forms; this form shall be utilized for the provision of this information to the Commission. Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

14. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

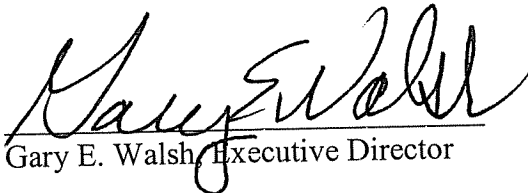
15. E-Z Tel requests a waiver of Reg. 103-610, which requires that records required by the Commission's Rules and Regulations be maintained in South Carolina. The record reveals that E-Z Tel's principal headquarters is located in Dallas, Texas, and E-Z Tel requests permission to maintain its books and records at its headquarters in that city and state. The Commission finds E-Z Tel's requested waiver reasonable and understands the difficulty presented to E-Z Tel should the waiver not be granted. The Commission therefore grants the requested waiver that E-Z Tel be allowed to maintain its books and records at its principal headquarters. However, E-Z Tel shall make available its books and records at all reasonable times upon request by the Commission or the Commission Staff, and E-Z Tel shall promptly notify the Commission if the location of its books and records changes.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Mignon L. Clyburn, Chairman

ATTEST:


Gary E. Walsh, Executive Director

(SEAL)